

Federal Operating Permit  
Article 1

This permit is based upon the requirements of Title V of the Federal Clean Air Act and Chapter 80, Article 1 of the Commonwealth of Virginia Regulations for the Control and Abatement of Air Pollution. Until such time as this permit is reopened and revised, modified, revoked, terminated or expires, the permittee is authorized to operate in accordance with the terms and conditions contained herein. This permit is issued under the authority of Title 10.1, Chapter 13, §10.1-1322 of the Air Pollution Control Law of Virginia. This permit is issued consistent with the Administrative Process Act, and 9 VAC 5-80-50 through 9 VAC 5-80-300 of the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution of the Commonwealth of Virginia.

Authorization to operate a Stationary Source of Air Pollution as described in this permit is hereby granted to:

Permittee Name:	City of Lynchburg/Dept. of Public Works Waste Management Division
Facility Name:	Lynchburg Waste Management Facility
Facility Location:	2704 Concord Turnpike Lynchburg, Virginia
Registration Number:	31048
Permit Number:	SCRO31048

This permit includes the following programs:

**Federally Enforceable Requirements - Clean Air Act (Sections I through IX)**

May 8, 2007  
Effective Date

May 7, 2012  
Expiration Date

\_\_\_\_\_  
Regional Director

\_\_\_\_\_  
Signature Date

Table of Contents, 2 pages  
Permit Conditions, 21 pages

**Table of Contents**

<b>I. FACILITY INFORMATION .....</b>	<b>3</b>
<b>II. EMISSION UNITS.....</b>	<b>4</b>
<b>III. LANDFILL REQUIREMENTS .....</b>	<b>5</b>
A. LIMITATIONS .....	5
B. MONITORING AND RECORDKEEPING.....	6
C. TESTING .....	7
D. REPORTING .....	7
<b>IV. INSIGNIFICANT EMISSION UNITS.....</b>	<b>10</b>
<b>V. PERMIT SHIELD &amp; INAPPLICABLE REQUIREMENTS.....</b>	<b>10</b>
<b>VI. GENERAL CONDITIONS.....</b>	<b>11</b>
A. FEDERAL ENFORCEABILITY .....	11
B. PERMIT EXPIRATION .....	11
C. RECORDKEEPING AND REPORTING .....	12
D. ANNUAL COMPLIANCE CERTIFICATION .....	13
E. PERMIT DEVIATION REPORTING .....	14
F. FAILURE/MALFUNCTION REPORTING .....	14
G. SEVERABILITY .....	15
H. DUTY TO COMPLY .....	15
I. NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE .....	15
J. PERMIT MODIFICATION.....	15
K. PROPERTY RIGHTS.....	15
L. DUTY TO SUBMIT INFORMATION .....	15
M. DUTY TO PAY PERMIT FEES .....	16
N. FUGITIVE DUST EMISSION STANDARDS .....	16
O. STARTUP, SHUTDOWN, AND MALFUNCTION .....	17
P. ALTERNATIVE OPERATING SCENARIOS.....	17
Q. INSPECTION AND ENTRY REQUIREMENTS .....	17
R. REOPENING FOR CAUSE.....	17
S. PERMIT AVAILABILITY .....	18
T. TRANSFER OF PERMITS .....	18
U. MALFUNCTION AS AN AFFIRMATIVE DEFENSE.....	19
V. PERMIT REVOCATION OR TERMINATION FOR CAUSE.....	19
W. DUTY TO SUPPLEMENT OR CORRECT APPLICATION.....	20
X. STRATOSPHERIC OZONE PROTECTION .....	20
Y. ASBESTOS REQUIREMENTS .....	20
Z. ACCIDENTAL RELEASE PREVENTION .....	20
AA. CHANGES TO PERMITS FOR EMISSIONS TRADING .....	20
BB. EMISSIONS TRADING .....	20

## **I. Facility Information**

### Permittee

City of Lynchburg

Department of Public Works-Waste Management Division

2704 Concord Turnpike

Lynchburg, VA 24505

### Responsible Official

David A. Owen

Director Public Works

### Facility

Lynchburg Waste Management Facility

2525 Concord Turnpike

Lynchburg, VA 24505

### Contact Person

Michael McElhare

Engineering Coordinator

(434)455-6079

**County-Plant Identification Number:** 51-680-00204

**Facility Description:** NAICS 924110 – Lynchburg Waste Management Facility is a municipal solid waste (MSW) landfill. MSW is disposed in sanitary landfill cells where the decomposing waste produces landfill gas. Closed sections and expanded sites of the landfill employ a gas collection and control system for odor control. An alternative operating scenario is to operate without the flare to combust the collected gas and instead pipe the collected gas to a nearby industrial facility to use as fuel. The gas will not be stored at the Landfill. The flare will remain for emergency back-up use in the event of downtime of the industrial facility's boilers.

The facility is permitted under a minor New Source Review Permit dated August 31, 2001.

## II. Emission Units

Equipment to be operated consists of:

Emission Unit ID	Stack ID	Emission Unit Description	Size/Rated Capacity*	Pollution Control Device (PCD) Description	PCD ID	Pollutant Controlled	Applicable Permit Date
<b>Process Equipment – MSW Landfill</b>							
Landfill	-	Municipal Solid Waste Landfill	3.17 million Mg (4,585 m <sup>3</sup> )	Callidus Technologies Flare and GCCS		VOC (see AOS)	August 13, 2001

\*The Size/Rated capacity is provided for informational purposes only, and is not an applicable requirement; AOS = alternative operating schedule.

### **III. Landfill Requirements**

#### **A. Limitations**

1. The design capacity of the MSW is 3.17 million Mg (4,585,100 m<sup>3</sup>). A change in the design capacity may require a state Air Pollution Control Board permit to construct and operate.  
(9 VAC 5-80-110 and Condition 2 of 8/13/01 Permit)
2. Within 30 months of the first annual emission rate report, required in Condition III.D.3 or Condition III.D.4, in which the emission rate equals or exceeds 50 Mg/yr, the permittee shall install a landfill gas collection and control system which:
  - a. Is designed to handle the maximum expected gas flow rate from the entire area of the landfill;
  - b. Collect gas from each area, cell or group of cells in which initial solid waste has been in place for a period of:
    - (1) 5 years or more if active; or
    - (2) 2 years or more if closed or at final grade;
  - c. Collects gas at a sufficient extraction rate;
  - d. Is designed to minimize off-site migration of subsurface gas;
  - e. Reduces NMOC by 98 weight-percent or, for an enclosed combustion device, either reduces NMOC by 98 weight-percent or reduces the outlet concentration to less than 20 ppmv, dry, as hexane, at 3 percent oxygen;
  - f. Maintains the methane concentration at the surface of the landfill at less than 500 ppmv above the background level.  
(9 VAC 5-80-110 and Condition 3 of 8/13/01 Permit)
3. Unless otherwise specified, dust emission controls shall include the following or equivalent as a minimum:
  - a. Dust from grading, cell construction, waste compaction, application of daily cover wood waste chipping operations, storage piles and traffic areas shall be controlled by wet suppression or equivalent (as approved by DEQ) control measures.

- b. All materials being stockpiled shall be kept moist to control dust during storage and handling, or covered to minimize emissions.
- c. Dust from haul roads shall be controlled by wet suppression and prompt removal of dried sediment resulting from soil erosion and dirt spilled or tracked onto paved surfaces within the landfill.
- d. Reasonable precautions shall be taken to prevent deposition of dirt on public roads and subsequent dust emissions. Dirt spilled or tracked onto paved surfaces shall be promptly removed to prevent particulate matter from becoming airborne.

(9 VAC 5-80-110 and Condition 4 of 8/13/01 Permit)

- 4. Except where this permit is more restrictive than the applicable requirement, the MSW landfill shall be modified and operated in accordance with 40 CFR 60, Subpart WWW.

(9 VAC 5-80-110 and Condition 5 of 8/13/01 Permit)

## **B. Monitoring and Recordkeeping**

- 1. The permittee shall maintain records of all emission data and operating parameters necessary to demonstrate compliance with this permit. The content of and format of such records shall be arranged with the South Central Regional Office. These records shall included, but are not limited to:
  - a. Current maximum design capacity, current amount of refuse in place, and year by year refuse accumulation rates.
  - b. Description, location, amount, and placement date of all nondegradable refuse including asbestos and demolition refuse placed in landfill areas which are excluded from landfill gas collection and control.
  - c. Installation date and location of all wells and flares

These records shall be available on site for inspection by the DEQ and shall be current for the most recent (5) years.

(9 VAC 5-80-110 and Condition 6 of 8/13/01 Permit)

- 2. At least one time per calendar week an observation of the presence of visible emissions from the flare stack shall be made. The presence of visible emissions shall require the permittee to:
  - a. Take timely corrective action such that the flare, with visible emissions, resumes operation with no visible emissions, or,

- b. Conduct a visible emission determination on the flare stack in accordance with EPA Method 22 (reference 40 CFR 60, Appendix A) for a minimum of two (2) hours, to assure that there are no visible emissions from the flare except for periods not to exceed a total of 5 minutes during any two consecutive hours.

The permittee shall maintain a flare stack observation log to demonstrate compliance. The logs shall include the date and time of the observations, whether or not there were visible emissions, the results of all VEEs, any necessary corrective action, and the name of the observer. If the flare has not been operated for any period during the week it shall be noted in the logbook.

(9 VAC 5-80-110E and 9 VAC 5-80-110 K)

3. The permittee shall maintain records sufficient to document the permittee's determination, as stated in the Air Operating Permit Application dated October 23, 2006, that the landfill is not subject to 40 CFR 63 Subpart AAAA. The permittee shall keep a record of the applicability determination on site for a period of 5 years after the determination or until the source changes its operations to become an affected source, whichever comes first. The record of the applicability determination must be signed by the person making the determination and include an analysis (or other information) that demonstrates why the permittee or operator believes the landfill is unaffected.

(9VAC 5-80-110, 40 CFR 63.1(b)(3) and 40 CFR 63.10 (b)(3))

### **C. Testing**

1. The permitted facility shall be constructed so as to allow for emissions testing at any time using appropriate methods. Upon request from the Department, test ports shall be provided at the appropriate locations.
2. If testing is conducted in addition to the monitoring specified in this permit, the permittee shall use the appropriate method(s) in accordance with procedures approved by the DEQ.

(9 VAC 5-80-110)

### **D. Reporting**

1. Not later than one year from the date of the initial NMOC report, unless the permittee elects to submit a five-year NMOC emission rate report, the permittee must submit an annual NMOC emission rate report to the South Central Regional Office. The NMOC emission rate shall be calculated in accordance with the methodology contained in 40 CFR 60.754(a)(1) through (a)(5). The report shall include all data, calculations, sample reports and measurements used to estimate the emissions.

(9 VAC 5-80-110 and Condition 10 of 8/13/01 Permit)

2. If the estimated NMOC emission rate, as presented in the annual report required in Condition III.D.5, is less than 50 Mg/yr in each of the next five consecutive years following the initial NMOC report, the permittee may elect to submit an estimate of the NMOC emission rate for the next five year period in lieu of the annual report. The estimate shall include the following:
  - a. The current amount of solid waste in place, and
  - b. The estimated waste acceptance rate for each year of the five years for which an NMOC emission rate is estimated.

The NMOC emission rate shall be calculated in accordance with the methodology contained in 40 CFR 60.754(a)(1) through (a)(5). All data, calculations, sample reports and measurements upon which the estimate is based shall be presented with the report to the South Central Regional Office. The estimate shall be revised at least every 5 years.

(9 VAC 5-80-110 and Condition 11 of 8/13/01 Permit)

3. If the actual waste acceptance rate exceeds the estimated waste acceptance rate in any year reported in the 5-year estimate, a revised 5-year estimate shall be submitted to the South Central Regional Office. The revised estimate shall cover the five year period beginning with the year in which the actual waste acceptance rate exceeded the estimated waste acceptance rate and shall be submitted within 180 days of the first exceedance of the estimated waste acceptance rate.

(9 VAC 5-80-110 and Condition 12 of 8/13/01 Permit)

4. If the reported NMOC emission rate, in the initial, annual or revised 5-yr report, is equal to or exceeds 50 Mg/yr, the permittee shall:
  - a. Submit an LFG gas collection system and control plan, or
  - b. Within 180 days of the emission rate report in Condition III.D.3 or Condition III.D.4, demonstrate, using a site specific NMOC concentration (Tier 2), that NMOC emission do not equal or exceed 50 Mg/yr, submit a revised NMOC emission rate report, resume annual NMOC emission rate reporting, and retest the site specific NMOC concentration every 5 years.

(9 VAC 5-80-110 and Condition 13 of 8/13/01 Permit)

5. If, using a site-specific NMOC concentration, the NMOC emission rate is equal to or exceeds 50 Mg/yr, the permittee shall:



- a. Submit an LFG gas collection system and control plan, or
- b. Within 1 year of the emission rate report in Condition III.D.3 or Condition III.D.4, demonstrate using a site specific methane generation constant (Tier 3), that NMOC emissions do not equal or exceed 50 Mg/yr, submit a revised NMOC emission rate report and resume annual NMOC emission rate reporting.

(9 VAC 5-80-110 and Condition 14 of 8/13/01 Permit)

6. The landfill gas collection and control system design plan required by Condition III.D.8 or Condition III.D.9 shall be submitted to the South Central Regional Office, within one year after submitting the NMOC emission rate report required in Condition III.D.3 or Condition III.D.4, reporting an NMOC emission rate which equals or exceeds 50 Mg/yr.  
(9 VAC 5-80-110 and Condition 15 of 8/13/01 Permit)
7. If the permittee is required to install a gas collection and control system according to the provisions of 9 VAC 5-50-410 Subpart WWW, the permittee shall apply for a solid waste permit amendment in accordance with Part VII (9 VAC 20-80-480 et seq.) of 9 VAC 20 Chapter 80 (Solid Waste Management Regulations).  
(9 VAC 5-80-110 and Condition 16 of 8/13/01 Permit)
8. If the permittee is required to install a gas collection and control system according to the provisions of 9 VAC 5-50-410 Subpart WWW, the permittee shall apply for a Title V operating permit administrative amendment within 90 days of date of approval of the gas collection and control plan.  
(9 VAC 5-80-110 and Condition 17 of 8/13/01 Permit)
9. The permittee shall submit a closure report to the South Central Regional Office, within 30 days of the date the MSW landfill stopped accepting waste.  
(9 VAC 5-80-110 and Condition 18 of 8/13/01 Permit)
10. Upon installation of the LFG Collection and Control System required by 9 VAC 5-50-410, Subpart WWW, the permittee shall develop, maintain, and make available to all operators good operating procedures and a maintenance schedule for the LFG Collection and Control System. These procedures shall be based on the manufacturer's recommendations, at a minimum. All records required by this condition shall be on site for the most current five-year period and made available for inspection by the South Central Regional Office.  
(9 VAC 5-80-110 and Condition 20 of 8/13/01 Permit)

#### IV. Insignificant Emission Units

The following emission units at the facility are identified in the application as insignificant emission units under 9 VAC 5-80-720:

Emission Unit No.	Emission Unit Description	Citation	Pollutant(s) Emitted (9 VAC 5-80-720 B)	Rated Capacity 9 VAC 5-80-720 C)
None Identified				

These emission units are presumed to be in compliance with all requirements of the federal Clean Air Act as may apply. Based on this presumption, no monitoring, recordkeeping, or reporting shall be required for these emission units in accordance with 9 VAC 5-80-110.

#### V. Permit Shield & Inapplicable Requirements

Compliance with the provisions of this permit shall be deemed compliance with all applicable requirements in effect as of the permit issuance date as identified in this permit. This permit shield covers only those applicable requirements covered by terms and conditions in this permit and the following requirements which have been specifically identified as being not applicable to this permitted facility:

Citation	Title of Citation	Description of Applicability
40 CFR 60.752 (b)(2)(ii)	Standard of Performance for Municipal Solid Waste Landfills: Installation of Gas Collection and Control System	"If the NMOC emission rate, upon recalculation required in paragraph (b)(1)(ii) of this section, is equal to or greater than 50 megagrams per year, the owner or operator shall install a collection and control system in compliance with paragraph (b)(2) of this section. ..."
40 CFR 60.753	Standard of Performance for Municipal Solid Waste Landfills: Operational standards for collection and control systems	"Each owner or operator of an MSW landfill with a gas collection and control system <u>used to comply</u> with the provisions of §60.752(b)(2)(ii) of this subpart...":
40 CFR 60.756	Standard of Performance for Municipal Solid Waste Landfills: Monitoring of Gas Collection Operations	"Each owner or operator seeking to comply with §60.752(b)(2)(ii)(A) for an active gas collection system shall install a sampling port and a thermometer, other temperature measuring device, or an access port for temperature measurements..."
40 CFR 63	Subpart AAAA National Emission Standards for Hazardous Air Pollutants: MSW Landfills	<p>You are subject if you meet the criteria in paragraph (a) or (b):</p> <p>(a) You own or operate a MSW landfill that has accepted waste since November 8, 1987 or has additional capacity for waste deposition and meets any one of the three criteria in paragraphs (a)(1) through (3) of this section:</p> <p>(1) MSW landfill is a major source as per in 40 CFR 63.2 of subpart A.</p> <p>(2) MSW landfill is collocated with a major source as per 40 CFR 63.2 of subpart A.</p> <p>(3) MSW landfill is an area source landfill that has a design capacity <math>\geq</math> 2.5 million megagrams (Mg) and 2.5 million cubic meters (m<sup>3</sup>) <b>and</b> has estimated uncontrolled emissions <math>\geq</math> 50</p>

		megagrams per year (Mg/yr) NMOC as calculated according to §60.754(a) of the MSW landfills new source performance standards in 40 CFR part 60, subpart WWW, the Federal plan, or an EPA approved and effective State or tribal plan that applies to your landfill. <b>OR</b>
40 CFR 64	Compliance Assurance Monitoring (CAM)	b) You own or operate a MSW landfill that has accepted waste since November 8, 1987 or ...includes a bioreactor, Pollutant-specific emissions unit (PSEU) at a major source that is required to obtain a part 70 or 71 permit if the unit satisfies the criteria of: being subject to an emission limit or standard for a regulated pollutant; uses a control device to achieve emission limitation or standards; and PTE equal to or greater than major source thresholds.

Nothing in this permit shield shall alter the provisions of §303 of the federal Clean Air Act, including the authority of the administrator under that section, the liability of the owner for any violation of applicable requirements prior to or at the time of permit issuance, or the ability to obtain information by (i) the administrator pursuant to §114 of the federal Clean Air Act, (ii) the Board pursuant to §10.1-1314 or §10.1-1315 of the Virginia Air Pollution Control Law or (iii) the Department pursuant to §10.1-1307.3 of the Virginia Air Pollution Control Law.

(9 VAC 5-80-140)

## VI. General Conditions

### A. Federal Enforceability

All terms and conditions in this permit are enforceable by the administrator and citizens under the federal Clean Air Act, except those that have been designated as only state-enforceable.

(9 VAC 5-80-110 N)

### B. Permit Expiration

This permit has a fixed term of five years. The expiration date shall be the date five years from the date of issuance. Unless the owner submits a timely and complete application for renewal to the Department consistent with the requirements of 9 VAC 5-80-80, the right of the facility to operate shall be terminated upon permit expiration.

1. The owner shall submit an application for renewal at least six months but no earlier than eighteen months prior to the date of permit expiration.
2. If an applicant submits a timely and complete application for an initial permit or renewal under this section, the failure of the source to have a permit or the operation of the source without a permit shall not be a violation of Article 1, Part II of 9 VAC 5 Chapter 80, until the Board takes final action on the application under 9 VAC 5-80-

150.

3. No source shall operate after the time that it is required to submit a timely and complete application under subsections C and D of 9 VAC 5-80-80 for a renewal permit, except in compliance with a permit issued under Article 1, Part II of 9 VAC 5 Chapter 80.
4. If an applicant submits a timely and complete application under section 9 VAC 5-80-80 for a permit renewal but the Board fails to issue or deny the renewal permit before the end of the term of the previous permit, (i) the previous permit shall not expire until the renewal permit has been issued or denied and (ii) all the terms and conditions of the previous permit, including any permit shield granted pursuant to 9 VAC 5-80-140, shall remain in effect from the date the application is determined to be complete until the renewal permit is issued or denied.
5. The protection under subsections F 1 and F 5 (ii) of section 9 VAC 5-80-80 F shall cease to apply if, subsequent to the completeness determination made pursuant section 9 VAC 5-80-80 D, the applicant fails to submit by the deadline specified in writing by the Board any additional information identified as being needed to process the application.

(9 VAC 5-80-80 B, C, and F, 9 VAC 5-80-110 D and 9 VAC 5-80-170 B)

**C. Recordkeeping and Reporting**

1. All records of monitoring information maintained to demonstrate compliance with the terms and conditions of this permit shall contain, where applicable, the following:
  - a. The date, place as defined in the permit, and time of sampling or measurements.
  - b. The date(s) analyses were performed.
  - c. The company or entity that performed the analyses.
  - d. The analytical techniques or methods used.
  - e. The results of such analyses.
  - f. The operating conditions existing at the time of sampling or measurement.

(9 VAC 5-80-110 F)

2. Records of all monitoring data and support information shall be retained for at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records

and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

(9 VAC 5-80-110 F)

3. The permittee shall submit the results of monitoring contained in any applicable requirement to DEQ no later than **March 1** and **September 1** of each calendar year. This report must be signed by a responsible official, consistent with 9 VAC 5-80-80 G, and shall include:
  - a. The time period included in the report. The time periods to be addressed are January 1 to June 30 and July 1 to December 31.
  - b. All deviations from permit requirements. For purpose of this permit, deviations include, but are not limited to:
    - (1) Exceedance of emissions limitations or operational restrictions;
    - (2) Excursions from control device operating parameter requirements, as documented by continuous emission monitoring, periodic monitoring, or Compliance Assurance Monitoring (CAM) which indicates an exceedance of emission limitations or operational restrictions; or,
    - (3) Failure to meet monitoring, recordkeeping, or reporting requirements contained in this permit.
  - c. If there were no deviations from permit conditions during the time period, the permittee shall include a statement in the report that "no deviations from permit requirements occurred during this semi-annual reporting period."

(9 VAC 5-80-110 F)

#### **D. Annual Compliance Certification**

Exclusive of any reporting required to assure compliance with the terms and conditions of this permit or as part of a schedule of compliance contained in this permit, the permittee shall submit to EPA and DEQ no later than March 1 each calendar year a certification of compliance with all terms and conditions of this permit including emission limitation standards or work practices. The compliance certification shall comply with such additional requirements that may be specified pursuant to §114(a)(3) and §504(b) of the federal Clean Air Act. This certification shall be signed by a responsible official, consistent with 9 VAC 5-80-80 G, and shall include:

1. The time period included in the certification. The time period to be addressed is January 1 to December 31.
2. The identification of each term or condition of the permit that is the basis of the

certification.

3. The compliance status.
4. Whether compliance was continuous or intermittent, and if not continuous, documentation of each incident of non-compliance.
5. Consistent with subsection 9 VAC 5-80-110 E, the method or methods used for determining the compliance status of the source at the time of certification and over the reporting period.
6. Such other facts as the permit may require to determine the compliance status of the source.
7. One copy of the annual compliance certification shall be sent to EPA at the following address:

Clean Air Act Title V Compliance Certification (3AP00)  
U.S. Environmental Protection Agency, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

(9 VAC 5-80-110 K.5)

#### **E. Permit Deviation Reporting**

The permittee shall notify the Director, South Central Regional Office within four daytime business hours after discovery of any deviations from permit requirements which may cause excess emissions for more than one hour, including those attributable to upset conditions as may be defined in this permit. In addition, within 14 days of the discovery, the permittee shall provide a written statement explaining the problem, any corrective actions or preventative measures taken, and the estimated duration of the permit deviation. The occurrence should also be reported in the next semi-annual compliance monitoring report pursuant to General Condition VI.C.3 of this permit.

(9 VAC 5-80-110 F.2 and 9 VAC 5-80-250)

#### **F. Failure/Malfunction Reporting**

In the event that any affected facility or related air pollution control equipment fails or malfunctions in such a manner that may cause excess emissions for more than one hour, the owner shall, as soon as practicable but no later than four daytime business hours after the malfunction is discovered, notify the Director, South Central Regional Office by facsimile transmission, telephone or telegraph of such failure or malfunction and shall within 14 days of discovery provide a written statement giving all pertinent facts, including the estimated duration of the breakdown. When the condition causing the failure or malfunction has been

corrected and the equipment is again in operation, the owner shall notify the Director, South Central Regional Office.

(9 VAC 5-20-180 C)

**G. Severability**

The terms of this permit are severable. If any condition, requirement or portion of the permit is held invalid or inapplicable under any circumstance, such invalidity or inapplicability shall not affect or impair the remaining conditions, requirements, or portions of the permit.

(9 VAC 5-80-110 G.1)

**H. Duty to Comply**

The permittee shall comply with all terms and conditions of this permit. Any permit noncompliance constitutes a violation of the federal Clean Air Act or the Virginia Air Pollution Control Law or both and is ground for enforcement action; for permit termination, revocation and reissuance, or modification; or, for denial of a permit renewal application.

(9 VAC 5-80-110 G.2)

**I. Need to Halt or Reduce Activity not a Defense**

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(9 VAC 5-80-110 G.3)

**J. Permit Modification**

A physical change in, or change in the method of operation of, this stationary source may be subject to permitting under State Regulations 9 VAC 5-80-50, 9 VAC 5-80-1100, 9 VAC 5-80-1605, or 9 VAC 5-80-2000 and may require a permit modification and/or revisions except as may be authorized in any approved alternative operating scenarios.

(9 VAC 5-80-190 and 9 VAC 5-80-260)

**K. Property Rights**

The permit does not convey any property rights of any sort, or any exclusive privilege.

(9 VAC 5-80-110 G.5)

**L. Duty to Submit Information**

1. The permittee shall furnish to the Board, within a reasonable time, any information that the Board may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Board copies of records required to be kept by the permit and, for information

claimed to be confidential, the permittee shall furnish such records to the Board along with a claim of confidentiality.

(9 VAC 5-80-110 G.6)

2. Any document (including reports) required in a permit condition to be submitted to the Board shall contain a certification by a responsible official that meets the requirements of 9 VAC 5-80-80 G.

(9 VAC 5-80-110 K.1)

#### **M. Duty to Pay Permit Fees**

The owner of any source for which a permit under 9 VAC 5-80-50 through 9 VAC 5-80-300 was issued shall pay permit fees consistent with the requirements of 9 VAC 5-80-310 through 9 VAC 5-80-350. The actual emissions covered by the permit program fees for the preceding year shall be calculated by the owner and submitted to the Department by April 15 of each year. The calculations and final amount of emissions are subject to verification and final determination by the Department.

(9 VAC 5-80-110 H and 9 VAC 5-80-340 C)

#### **N. Fugitive Dust Emission Standards**

During the operation of a stationary source or any other building, structure, facility, or installation, no owner or other person shall cause or permit any materials or property to be handled, transported, stored, used, constructed, altered, repaired, or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne. Such reasonable precautions may include, but are not limited to, the following:

1. Use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land;
2. Application of asphalt, water, or suitable chemicals on dirt roads, materials stockpiles, and other surfaces which may create airborne dust; the paving of roadways and the maintaining of them in a clean condition;
3. Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty material. Adequate containment methods shall be employed during sandblasting or similar operations;
4. Open equipment for conveying or transporting material likely to create objectionable air pollution when airborne shall be covered or treated in an equally effective manner at all times when in motion; and,
5. The prompt removal of spilled or tracked dirt or other materials from paved streets and of dried sediments resulting from soil erosion.



(9 VAC 5-50-90)

**O. Startup, Shutdown, and Malfunction**

At all times, including periods of startup, shutdown, and soot blowing, and malfunction, owners shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with air pollution control practices for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Board, which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

(9 VAC 5-50-20 E)

**P. Alternative Operating Scenarios**

Contemporaneously with making a change between reasonably anticipated operating scenarios identified in this permit, the permittee shall record in a log at the permitted facility a record of the scenario under which it is operating. The permit shield described in 9 VAC 5-80-140 shall extend to all terms and conditions under each such operating scenario. The terms and conditions of each such alternative scenario shall meet all applicable requirements including the requirements of 9 VAC 5 Chapter 80, Article 1.

(9 VAC 5-80-110 J)

**Q. Inspection and Entry Requirements**

The permittee shall allow DEQ, upon presentation of credentials and other documents as may be required by law, to perform the following:

1. Enter upon the premises where the source is located or emissions-related activity is conducted, or where records must be kept under the terms and conditions of the permit.
2. Have access to and copy, at reasonable times, any records that must be kept under the terms and conditions of the permit.
3. Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit.
4. Sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

(9 VAC 5-80-110 K.2)

**R. Reopening For Cause**

The permit shall be reopened by the Board if additional federal requirements become applicable to a major source with a remaining permit term of three years or more. Such reopening shall be completed no later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to 9 VAC 5-80-80 F.

1. The permit shall be reopened if the Board or the administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.
2. The permit shall be reopened if the administrator or the Board determines that the permit must be revised or revoked to assure compliance with the applicable requirements.
3. The permit shall not be reopened by the Board if additional applicable state requirements become applicable to a major source prior to the expiration date established under 9 VAC 5-80-110 D.

(9 VAC 5-80-110 L)

#### **S. Permit Availability**

Within five days after receipt of the issued permit, the permittee shall maintain the permit on the premises for which the permit has been issued and shall make the permit immediately available to DEQ upon request.

(9 VAC 5-80-150 E)

#### **T. Transfer of Permits**

1. No person shall transfer a permit from one location to another, unless authorized under 9 VAC 5-80-130, or from one piece of equipment to another.  
(9 VAC 5-80-160)
2. In the case of a transfer of ownership of a stationary source, the new owner shall comply with any current permit issued to the previous owner. The new owner shall notify the Board of the change in ownership within 30 days of the transfer and shall comply with the requirements of 9 VAC 5-80-200.  
(9 VAC 5-80-160)
3. In the case of a name change of a stationary source, the owner shall comply with any current permit issued under the previous source name. The owner shall notify the Board of the change in source name within 30 days of the name change and shall comply with the requirements of 9 VAC 5-80-200.  
(9 VAC 5-80-160)

**U. Malfunction as an Affirmative Defense**

1. A malfunction constitutes an affirmative defense to an action brought for noncompliance with technology-based emission limitations if the requirements of paragraph 2 of this condition are met.
2. The affirmative defense of malfunction shall be demonstrated by the permittee through properly signed, contemporaneous operating logs, or other relevant evidence that show the following:
  - a. A malfunction occurred and the permittee can identify the cause or causes of the malfunction.
  - b. The permitted facility was at the time being properly operated.
  - c. During the period of the malfunction the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit.
  - d. The permittee notified the Board of the malfunction within two working days following the time when the emission limitations were exceeded due to the malfunction. This notification shall include a description of the malfunction, any steps taken to mitigate emissions, and corrective actions taken. The notification may be delivered either orally or in writing. The notification may be delivered by electronic mail, facsimile transmission, telephone, or any other method that allows the permittee to comply with the deadline. This notification fulfills the requirements of 9 VAC 5-80-110 F.2.b to report promptly deviations from permit requirements. This notification does not release the permittee from the malfunction reporting requirement under 9 VAC 5-20-180 C.
3. In any enforcement proceeding, the permittee seeking to establish the occurrence of a malfunction shall have the burden of proof.
4. The provisions of this section are in addition to any malfunction, emergency or upset provision contained in any applicable requirement.

(9 VAC 5-80-250)

**V. Permit Revocation or Termination for Cause**

A permit may be revoked or terminated prior to its expiration date if the owner knowingly makes material misstatements in the permit application or any amendments thereto or if the permittee violates, fails, neglects or refuses to comply with the terms or conditions of the permit, any applicable requirements, or the applicable provisions of 9 VAC 5 Chapter 80 Article 1. The Board may suspend, under such conditions and for such period of time as the

Board may prescribe any permit for any grounds for revocation or termination or for any other violations of these regulations.

(9 VAC 5-80-190 C and 9 VAC 5-80-260)

**W. Duty to Supplement or Correct Application**

Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrections. An applicant shall also provide additional information as necessary to address any requirements that become applicable to the source after the date a complete application was filed but prior to release of a draft permit.

(9 VAC 5-80-80 E)

**X. Stratospheric Ozone Protection**

If the permittee handles or emits one or more Class I or II substances subject to a standard promulgated under or established by Title VI (Stratospheric Ozone Protection) of the federal Clean Air Act, the permittee shall comply with all applicable sections of 40 CFR Part 82, Subparts A to F.

(40 CFR Part 82, Subparts A-F)

**Y. Asbestos Requirements**

The permittee shall comply with the requirements of National Emissions Standards for Hazardous Air Pollutants (40 CFR 61) Subpart M, National Emission Standards for Asbestos as it applies to the following: Standards for Demolition and Renovation (40 CFR 61.145), Standards for Insulating Materials (40 CFR 61.148), and Standards for Waste Disposal (40 CFR 61.150).

(9 VAC 5-60-70 and 9 VAC 5-80-110 A.1)

**Z. Accidental Release Prevention**

If the permittee has more, or will have more than a threshold quantity of a regulated substance in a process, as determined by 40 CFR 68.115, the permittee shall comply with the requirements of 40 CFR Part 68.

(40 CFR Part 68)

**AA. Changes to Permits for Emissions Trading**

No permit revision shall be required under any federally approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in this permit.

(9 VAC 5-80-110 I)

**BB. Emissions Trading**

Where the trading of emissions increases and decreases within the permitted facility is to occur within the context of this permit and to the extent that the regulations provide for trading such increases and decreases without a case-by-case approval of each emissions trade:

1. All terms and conditions required under 9 VAC 5-80-110, except subsection N, shall be included to determine compliance.
  2. The permit shield described in 9 VAC 5-80-140 shall extend to all terms and conditions that allow such increases and decreases in emissions.
  3. The owner shall meet all applicable requirements including the requirements of 9 VAC 5-80-50 through 9 VAC 5-80-300.
- (9 VAC 5-80-110 I)